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Canal Company*

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*Attorneys for American Falls Reservoir
District #2 and Minidoka Irrigation District*

RECEIVED
APR 07 2017
Department of Water Resources
Eastern Region

**BEFORE THE DEPARTMENT OF WATER RESOURCES
OF THE STATE OF IDAHO**

IN THE APPLICATION FOR TRANSFER OF
WATER RIGHT NO. T81292

In the names of Kip Hunter and Brandi Hunter

**NOTICE OF TAKING DEPOSITION
DUCES TECUM OF JEFF PEPPERSACK**

**WEDNESDAY, APRIL 12, 2017
11:00 a.m.**

**322 EAST FRONT ST., ROOM 602B
BOISE, IDAHO**

IN THE APPLICATION FOR TRANSFER OF
WATER RIGHT NO. T81293

In the names of Kip Hunter and Brandi Hunter

**NOTICE OF TAKING DEPOSITION
DUCES TECUM OF JEFF PEPPERSACK**

**WEDNESDAY, APRIL 12, 2017
11:00 a.m.**

**322 EAST FRONT ST., ROOM 602B
BOISE, IDAHO**

TO: JEFF PEPPERSACK:

PLEASE TAKE NOTICE that the Protestants, A&B Irrigation District, American Falls
Reservoir District #2, Burley Irrigation District, Minidoka Irrigation District, Milner Irrigation

District, North Side Canal Company and Twin Falls Canal Company (hereafter collectively “Surface Water Coalition,” “Coalition” or “SWC”), will take your deposition before a certified Court Reporter, in accordance with the Idaho Rules of Civil Procedure, on Wednesday, April 12, 2017, at 11:00 a.m. at the offices of Idaho Department of Water Resources, located at 322 East Front Street, Room 602 B, Boise, Idaho 83702.

Attached to this Notice are two letters submitted to the Hearing Office in this matter. Each letter identifies topics and questions to be answered by Department staff in a hearing on the above matter. The letters were submitted on behalf of the Idaho Groundwater Appropriators, Inc. (the “IGWA Letter”) and the Surface Water Coalition (“SWC Letter”). You have been identified as a Department Staff member who can address the following issues (as stated on the attached letters):

- SWC Letter: Question Nos. 1-3

The Deponent should be prepared to address these issues in your deposition.

The Deponent is further required to identify and bring the following documents to the deposition:

1. Copies of all documents relating to the issues identified above including, but not limited to, regulations, policy handbooks, memos or letters, correspondence, drafts and notes.
2. All other documents you have reviewed or will review in preparation for this deposition.

The term “document” as used above includes, but is not limited to, notes (oral or written), memoranda, reports, studies, maps, surveys, plans, drawings, photographs, calculations, spreadsheets and any computer analyses, whether written or electronic in format.

The oral examination will continue from day to day until completed.

FLETCHER LAW OFFICE



W. Kent Fletcher

*Attorneys for American Falls Reservoir
District #2 & Minidoka Irrigation District*

BARKER ROSHOLT & SIMPSON LLP



John K. Simpson
Travis L. Thompson
Paul L. Arrington

*Attorneys for A&B Irrigation District, Burley
Irrigation District, Milner Irrigation District,
North Side Canal Company, and Twin Falls
Canal Company*

CERTIFICATE OF SERVICE

I hereby certify that on this 4th day of April, 2017, I served a copy of the foregoing, via email and U.S. Mail to:

James Cefalo
Idaho Department of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718
James.Cefalo@idwr.idaho.gov

Jeff Peppersack
Idaho Department of Water Resources
322 East Front Street
P.O. Box 83720
Boise, ID 83720-0098
Jeff.Peppersack@idwr.idaho.gov

And via email, pursuant to agreement by Counsel, to:

Robert L. Harris
HOLDEN, KIDWELL, HAHN & CRAPO, PLLC
P.O. Box 50130
1000 Riverwalk Drive, Suite 200
Idaho Falls, ID 83405
rharris@holdenlegal.com

T.J. Budge
RACINE OLSON NYE BUDGE & BAILEY, CHTD.
P.O. Box 1391
201 E. Center St.
Pocatello, ID 83204-1391
tjb@racinelaw.net



Jessica Nielsen

March 2, 2017

James Cefalo
Idaho Department of Water Resources
900 North Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

Re: Hunter Transfer Nos. 81292 and 81293

Mr. Cefalo,

The *Notice of Hearing and Discovery/Disclosure Order* issued February 6, 2017, in this matter requires the parties to notify the Department of topics and questions to be answered by Department staff at the hearing. IGWA requests the following topics and questions be addressed:

Topic: Enlargement

1. Total acres of land within the Aberdeen-Springfield Canal Company (ASCC) service area.
2. Total acres authorized for irrigation under ASCC surface water rights within the ASCC service area.
3. Total acres authorized for irrigation under groundwater rights within the ASCC service area.
4. Total acres land within the ASCC service area that are presently covered with both surface and ground water rights (so-called "stacked rights").
5. Of the lands within the ASCC service area covered by stacked rights, the number of acres under groundwater rights that (a) contain a decreed remark referring directly or indirectly to a combined use with service water, (b) do not contain a decreed remark but do contain an explanatory remark referring directly or indirectly to combined use with surface water, and (c) do not contain either a decreed remark or an explanatory remark referring directly or indirectly to combined use with surface water.

Topic: Explanatory Remarks

6. The Department's processes, policies, and practices for inserting explanatory remarks into water rights generally.

7. The history and justification for the Department's insertion of the following explanatory remark on water right no. 35-2824: "Use of this right is combined with water from Aberdeen-Springfield Canal Co."

I would like to depose the Department employee(s) identified to address the above questions in advance of the hearing; therefore, I kindly ask that they be identified by the end of March so that a deposition can be scheduled during April.

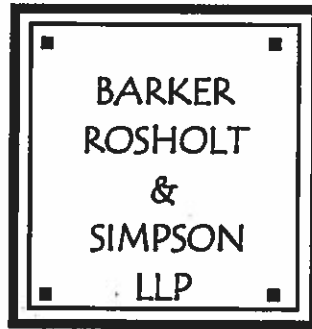
Sincerely,

A handwritten signature in black ink, appearing to read "T.J. Budge", with a horizontal line extending to the left.

T.J. BUDGE

c: Rob Harris
Paul Arrington
Kent Fletcher

John A. Rosholt
Albert P. Barker
John K. Simpson
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Paul L. Arrington
pla@idahowaters.com

March 3, 2017

James Cefalo
Idaho Department of Water Resources
900 N. Skyline Drive, Suite A
Idaho Falls, ID 83402-1718

RE: Hunter Transfer Nos. 80292 & 81293

Mr. Cefalo:

I am sending this letter on behalf of the Surface Water Coalition. Kent Fletcher, who also represents members of the Coalition has reviewed and approved of this letter.

The February 6, 2017 *Notice of Hearing & Discovery/Disclosure Order* set a deadline of March 3, 2017 for the parties to notify the Department of topics and questions to be answered by Department staff. The Department will then identify the employee(s) best suited to address those topics and questions and make the employee(s) available for deposition and/or testimony at hearing.

The Coalition joins in the topics identified in Mr. Budge's letter, dated March 3, 2017. In addition, the Coalition identifies the following topics and questions:

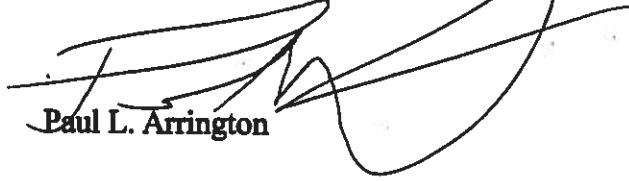
1. The transfer memorandum provides that supplemental water rights may be changed to primary rights if the water user shows 5-years of use records in the transfer process. What is the basis for this policy? How does the Department apply this policy?
2. If the Department does allow a supplemental right to be changed to a primary right, what becomes of the status of the former primary right?
3. If both rights become primary and are used to irrigate different acres, does that constitute an expansion of the original water rights?
4. The difference between an "explanatory" remark and a "condition" on a water right.

James Cefalo
March 3, 2017
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Please identify the appropriate Department employee(s) by the end of March so that depositions may be scheduled in April.

Sincerely,

BARKER ROSHOLT & SIMPSON LLP



Paul L. Arrington

cc: TJ Budge (email only)
Rob Harris (email only)
Kent Fletcher (email only)